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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re

RAUL A. VALENCIA,

On Habeas Corpus.

F070826

(Stanislaus Super. Ct. No. 1453984)

OPINION

THE COURT*

ORIGINAL PROCEEDING; petition for writ of habeas corpus.

Raul A. Valencia, in pro. per., for Petitioner.

Kamala D. Harris, Attorney General, Michael P. Farrell, Assistant Attorney General, Julie A. Hokans and Ryan B. McCarroll, Deputy Attorneys General, for Respondent.

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Petitioner seeks permission to file a belated appeal by way of a petition for writ of habeas corpus. We grant petitioner's request based on petitioner's timely filing of his notice of appeal. Petitioner's additional habeas claims are denied without prejudice for consideration in the appeal.

* Before Kane, A.P.J., Detjen, J., and Smith, J.

STATEMENT OF FACTS

On December 12, 2013, petitioner was convicted of three counts of robbery with the use of a deadly weapon. He was sentenced six months later on June 20, 2014, to 32 years 8 months in prison.

On August 14, 2014, due to counsel's failure to file a notice of appeal, petitioner filed his own notice of appeal in Stanislaus County Superior Court. In the notice of appeal, petitioner mistakenly indicated the date of the rendition of judgment as December, 12, 2013 (the date of his conviction), instead of June 20, 2014 (the date of his sentencing). The superior court did not catch his mistake, and deemed his notice of appeal untimely.¹

On January 22, 2015, petitioner filed a writ of habeas corpus in this court.

On March 13, 2015, this court invited the Attorney General to respond to this court's considering granting the petition for habeas corpus because it appeared the notice of appeal was timely filed.

On April 3, 2015, the Attorney General filed an informal response informing this court that it does not oppose petitioner's request to file a belated appeal.

Despite petitioner's error of indicating his December 12, 2013, conviction as the date of rendition of judgment, instead of his June 20, 2014, sentencing, petitioner *timely* filed his notice of appeal on August 12, 2014, under California Rules of Court, rule 8.308(a).

DISPOSITION

Petitioner is entitled to relief. If petitioner still wishes to appeal, he must file a new notice of appeal within 30 days from the filing date of this opinion in Stanislaus County Superior Court, case No. 1453984.

¹ There is no cause to discuss counsel's failure to timely file the notice of appeal or the constructive filing doctrine, as petitioner timely filed his notice of appeal.

Let a writ of habeas corpus issue directing the Clerk of the Stanislaus County Superior Court to file petitioner's notice of appeal in its case No. 1453984, if received within 30 days from the date of the filing of this opinion, to treat it as being timely filed, and to proceed with the preparation of the record on appeal in accordance with the applicable California Rules of Court.

The substantive issues regarding the effectiveness of trial counsel and insufficient evidence are denied without prejudice and may be presented on appeal.

A copy of this opinion shall be sent to the Central California Appellate Program.